IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.45187 of 2008

1. **MD.ISTEYAQUE, SON OF MD. ZAFIRUD AHMAD.**
2. **MUMTAZ BANO ARZOO @ ARZOO BANO, WIFE OF MD. ISHTEYAQYE.**

BOTH ARE RESIDENT OF MOHALLA-SADPUR, MILKITOLA, P.S. KAZI MOHAMMADPUR, DISTRICT-MUZAFFARPUR.

…….PETITIONERS.

Versus

THE STATE OF BIHAR…….OPPOSITE PARTY.

For the Petitioners : Sri Md. Shufiyan, Advocate.
For the State : Mr. Jharkhandi Upadhyay, A.P.P.

O R D E R

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The two petitioners who alongwith others are F.I.R. named accused in Bahadurpur P.S. Case No.96 of 2006 have prayed for the quashing of the order dated 22.10.2008 passed by the learned Sessions Judge, Darbhanga, in Criminal Revision No.533 of 2008 and to grant permission to them to go to Saudi Arabia to perform **Haj**.

The petitioners who are parents-in-law of complainant, Saista Usmani, are facing prosecution for offences under Sections 498-A/406/379/34 I.P.C. and 3/4 of the Dowry Prohibition Act. They have also been granted anticipatory bail.

From perusal of the impugned order passed in the revision refusing them permission to go abroad for performing **Haj,** it appears that the primary reason which weighed with the Revisional Court for refusing the prayer was that their sons and one daughter in spite of all efforts did not appear in the case as a result whereof their case had

been separated and the case of the petitioners alongwith a few others are proceeding separately and pending for serving police papers and framing of charge and in this view of the matter Revisional Court rejected their prayer.

It is true that the sons and one of their daughters are absconding which gives a serious turn to the case at hand. Apparently, there is no illegality in the impugned order.

Performing **Haj** is a religious obligations of the Muslims and one should not ordinarily be debarred from performing such functions.

Be that as it may, on the petitioners moving the court below they shall be permitted to go abroad to perform **Haj** on the condition that they shall give sufficient securities as fixed by the court below ensuring for their return back to the country including two sureties both of whom shall be Government Officials not below the rank of Class-II Officials.

On such securities and sureties being provided and terms and conditions fixed by the court below they shall be permitted to go abroad for 50 days duration.

In the result, this application is allowed in the terms stated above.

(Abhijit Sinha,J)

Patna High Court, Patna.
Dated: The 20th of November, 2008.
Pradeep Srivastava/AFR

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